

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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KENNETH JAY LANE, INC.,

Plaintiff,

-against-

HEAVENLY APPAREL, INC.,

Defendant.

ORDER

03 CV 2132 (GBD) (KNF)

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GEORGE B. DANIELS, District Judge:

After entering a judgment of default in this action, the Court referred this matter to Magistrate Judge Kevin N. Fox for an inquest on damages. He issued a Report and Recommendation (“Report”) recommending plaintiff be awarded: (a) \$331,250 in damages for breach of contract, with prejudgment interest calculated by the Clerk of the Court at the rate of 9% per year, from January 6, 2003; and (b) \$375,000 in statutory damages for trademark infringement. The magistrate judge also recommended that plaintiff be awarded postjudgment interest, calculated by the Clerk of the Court from May 3, 2004, in accordance with 28 U.S.C. § 1961. In the Report, the magistrate judge advised the parties that failure to file timely objections will result in a waiver of objections and will preclude appellate review. No party filed objections to the Report and the time to do so has expired. 28 U.S.C. § 636(b)(1).


The Court may accept, reject or modify, in whole or in part, the findings and recommendation set forth within the Report. 28 U.S.C. § 636(b)(1). Where there are no objections, the Court may accept the Report provided there is no clear error on the face of the record. Nelson v. Smith, 618 F.Supp. 1186, 1189 (S.D.N.Y. 1985); see also Heisler v. Kralik, 981 F.Supp. 830, 840 (S.D.N.Y. 1997), aff’d sub nom. Heisler v. Rockland County, 164 F.3d

618 (2d Cir. 1998).

After reviewing the Report, the Court finds that the record is not facially erroneous. Therefore, the Court adopts the Report in its entirety and, for the reasons stated therein, the Court directs the Clerk of the Court to enter judgment in accordance therewith.

Dated: New York, New York
March 21, 2006

SO ORDERED:



GEORGE B. DANIELS
United States District Judge